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UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION

HAIQI CHEN,)	
)	No. C 07-2462 EMC
Plaintiff,)	
)	
v.)	ANSWER
)	
United States Citizenship and Immigration)	
Services ("USCIS"); Department of Homeland)	
Security ("DHS"); Department of Justice)	
("DOJ"); Federal Bureau of Investigation ("FBI"),)	
)	
Defendants.)	

The Defendants hereby submit their answer to Plaintiff's Petition for Writ of Mandamus.

INTRODUCTION

1. Defendants admit the allegations in Paragraph One.

2. Defendants admit the allegations in Paragraph Two.

3. Defendants admit that plaintiff is a national of China and citizen of Canada; however, defendants are without sufficient information to admit or deny the remaining allegations.

4. Defendants admit that plaintiff filed an employment-based adjustment of status application on July 3, 2003, and the application remains pending. Defendants are without sufficient information to admit or deny the remaining allegations.

5. Defendants admit the first sentence in Paragraph Five; however, defendants deny the

1 remaining allegations in Paragraph Five.

2 6. Defendants deny the allegations in Paragraph Six.

3 **JURISDICTION AND VENUE**

4 7. Paragraph Seven consists of plaintiff's allegation regarding jurisdiction, to which no
5 responsive pleading is required; however, to the extent a responsive pleading is deemed necessary,
6 defendants deny that this Court has jurisdiction under any of the provisions cited in Paragraph
7 Seven.

8 8. Paragraph Eight consists of plaintiff's allegations regarding venue, to which no responsive
9 pleading is required; however, to the extent a responsive pleading is deemed necessary, the
10 defendants are without sufficient information to either admit or deny plaintiff's allegations
11 regarding venue.

12 9. Defendants admit the allegations in Paragraph Nine.

13 **PARTIES**

14 10. Defendants admit the allegations in Paragraph Ten, with the exception of the last sentence.

15 11. Defendants admit the allegations in Paragraph Eleven.

16 12. Defendants admit the allegations in Paragraph Twelve.

17 13. Defendants deny the allegations in Paragraph Thirteen.

18 14. Defendants deny the allegations in Paragraph Fourteen.

19 **FACTUAL ALLEGATIONS**

20 15. Defendants admit the allegations in Paragraph Fifteen.

21 16. Defendants admit the allegations in Paragraph Sixteen.

22 17. Defendants admit the allegations in Paragraph Seventeen.

23 18. Defendants are without sufficient information to either admit or deny the allegations in
24 Paragraph Eighteen as CIS does not generally track or interfile status inquiry information in the
25 alien registration file.

26 19. Defendants are without sufficient information to either admit or deny the allegations in
27 Paragraph Nineteen as CIS does not generally track or interfile status inquiry information in the
28 alien registration file.

20. Defendants are without sufficient information to either admit or deny the allegations in Paragraph Twenty as CIS does not generally track or interfile status inquiry information in the alien registration file.

21. Defendants are without sufficient information to either admit or deny the allegations in Paragraph Twenty-One as CIS does not generally track or interfile status inquiry information in the alien registration file.

22. Defendants are without sufficient information to either admit or deny the allegations in Paragraph Twenty-Two as CIS does not generally track or interfile status inquiry information in the alien registration file.

23. Defendants are without sufficient information to either admit or deny the allegations in Paragraph Twenty-Three as CIS does not generally track or interfile status inquiry information in the alien registration file.

24. Defendants admit the allegations in Paragraph Twenty-Four.

25. Defendants are without sufficient information to either admit or deny the allegations in Paragraph Twenty-Five as CIS does not generally track or interfile status inquiry information in the alien registration file.

26. Defendants are without sufficient information to either admit or deny the allegations in Paragraph Twenty-Six as CIS does not generally track or interfile status inquiry information in the alien registration file.

27. Defendants admit the first sentence in Paragraph Twenty-Seven; however, defendants deny the remaining allegations in Paragraph Twenty-Seven.

28. Defendants deny the allegations in Paragraph Twenty-Eight.

CAUSE OF ACTION

29. Defendants incorporate its responses to Paragraph One through Twenty-Eight as if set forth fully herein.

30. Defendants admit the allegations in Paragraph Thirty.

31. Defendants admit the allegations in Paragraph Thirty-One.

32. Defendants admit the allegations in Paragraph Thirty-Two.

33. Defendants admit the first sentence in Paragraph Thirty-Three; however, defendants deny the remaining allegations.

34. Defendants deny the allegations in Paragraph Thirty-Four.

35. Defendants deny the allegations in Paragraph Thirty-Five.

36. Defendants deny the allegations in Paragraph Thirty-Six.

37. Defendants deny the allegations in Paragraph Thirty-Seven.

PRAYER FOR RELIEF

The remaining paragraphs under the heading "Prayer for Relief" consists of plaintiff's prayer for relief, to which no admission or denial is required; to the extent a responsive pleading is deemed to be required, defendants deny this paragraph.

FIRST AFFIRMATIVE DEFENSE

Plaintiff's petition fails to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

The court should dismiss the Petition For Writ of Mandamus for lack for subject matter jurisdiction.

WHEREFORE, Defendants pray for relief as follows:

That judgment be entered for defendants and against plaintiff, dismissing plaintiff's Petition with prejudice; that plaintiff takes nothing; and that the Court grant such further relief as it deems just and proper under the circumstances.

Dated: July 9, 2007

Respectfully submitted,

SCOTT N. SCHOOLS
United States Attorney

/s/
EDWARD A. OLSEN
Assistant United States Attorney
Attorneys for Defendants